

Statement by the United States at the Meeting of the WTO Dispute Settlement Body

Geneva, April 3, 2017

1. EUROPEAN UNION – MEASURES RELATED TO PRICE COMPARISON METHODOLOGIES

A. REQUEST FOR THE ESTABLISHMENT OF A PANEL BY CHINA (WT/DS516/9)

- The United States is intervening again today to express our support for the right of the European Union to use a non-market economy methodology in antidumping proceedings involving China.
- As we explained at the last DSB meeting, China's Accession Protocol, as it exists today, expresses that the EU and other WTO Members may continue using a non-market economy methodology with respect to China as long as such treatment is justified by the facts.
- China appears to believe that the EU's finding that China is a non-market economy and use of a non-market economy methodology results in less favorable treatment. China's argument misses the point because it presupposes that China actually is a market economy and should be treated like other market economies for purposes of dumping comparisons.
- If the facts show that China has made the reforms necessary to become a market economy, then the EU should treat it as such. But if the facts show otherwise, then the EU need not do so.
- To be clear, the United States does not contend that the expiry of one provision in China's Accession Protocol has no meaning. Rather, any continued use of a non-market economy methodology under the Protocol must be justified by the facts in China.
- But China's apparent view that neither the facts in China nor the remaining provisions of the Protocol have any relevance is not only implausible, but is contrary to the text of the Protocol and the rights of other Members under the WTO Agreement.
- Consistent with this view, the United States has repeatedly asked China to engage on the facts. However, China has declined to request a change in its non-market economy status or to request that any of its industries be treated as market-oriented in any recent U.S. antidumping proceeding.
- Despite China's lack of engagement, as Members may be aware, the United States has decided to initiate a public process to ensure that we have the most recent information available regarding the status of China's economy. On March 29, 2017, the U.S. Department of Commerce announced an inquiry into China's non-market economy status

in the context of an investigation on aluminum foil, the first antidumping duty investigation involving Chinese products initiated since the change in China's Protocol.

- We invite China to participate in this transparent and facts-driven process to demonstrate the results of any efforts to reduce governmental distortions in China. China should similarly make use of the procedures available in the EU and other WTO Members to establish that it is a market economy under their respective laws instead of pursuing unnecessary litigation.
- If China instead continues down the path of litigation, the United States will resolutely stand with the EU, supporting its right to use an appropriate methodology to defend the interests of its workers and its businesses suffering from China's injurious dumping.
- We would strongly encourage other Members concerned about the effects of China's dumping on their workers and businesses to do so as well.